IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9943 OF 2004

Katwaru Jagannath Gupta .. Petitioner.
Vs.
Jhanku Jagannath Gupta & Anr. .. Respondents.

Ms.Chandralekha R.Benke the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 20TH DECEMBER, 2004

P.C.:

. Heard Mr.Benke, learned counsel for the petitioner.

2. By the impugned judgment the learned Judge has rejected the application filed by the petitioner seeking extension of time to file written statement. That application was rejected holding that the application is not tenable in law. In view of the judgment in **Shailaja A.Sawant Vs. Sayajirao Ganpatrao Patil 2004(2) Maharashtra Law Journal 419** which has been confirmed by the Division Bench of this court in **Chintaman Sukhdeo Kaklij and Others Vs. Shivaji Bhausaheb Gadhe and Others in Writ Petition No.2847 of 2004** vide its judgment dated 12/13 August, 2004, the appropriate

course would be to direct the learned Judge to consider the application filed by the petitioner seeking extension of time to file written statement afresh in the light of the observations in the aforesaid judgments. Hence the impugned order dated 8.7.2004 is quashed and set aside. The application dated 8.7.2004 (Exhibit-A) seeking extension of time to file written statement and condonation of delay is restored to file. The trial court to decide the application afresh, after giving an opportunity of being heard to the parties, in the light of the observations made by this court in the judgments aforestated. The petition is disposed of. While passing this order I shall not be understood to have examined the merits of the case.

(D.B.Bhosale, J.)